DRAFT

IN THE COUNTY BOARD OF APPEALS FOR MONTGOMERY COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF *
WASHINGTON ADVENTIST HOSPITAL TO * Case No. _____
AMEND ITS HOSPITAL SPECIAL EXCEPTION *

STATEMENT IN SUPPORT OF SPECIAL EXCEPTION MODIFICATION

Petitioner, The Washington Adventist Hospital ("Hospital"), by its attorneys, Linowes and Blocher LLP, hereby submits this Statement in Support of Special Exception Modification to demonstrate conformance of the proposed amendment to the existing Hospital special exception use (the "Proposed Project") with all applicable review requirements and criteria. As outlined on the tax map attached hereto as Exhibit "F", the property which is the subject of the proposed modification consists of 16.2 +/- acres, and it is known as Parcel P401, Block 51, located at 7600 Carroll Avenue, Takoma Park, Maryland 20912 (the "Property"). As shown on the certified zoning map, attached hereto as Exhibit "B", the Property is classified in the R-60 (Residential, One-family Detached) Zone, as set forth in Section 59-C-1.1 of the Montgomery County Zoning Ordinance 1994 (as amended) (the "Zoning Ordinance"). Section 59-C-1.3 of the Zoning Ordinance permits the operation of a hospital use in the R-60 Zone by grant of a special exception. The Hospital is currently in operation by grant of a special exception (Case No. S-238), which has been amended on several occasions.

The Proposed Project is necessary to address all foreseeable needs of the Hospital, consistent with the Long-Range Plan submitted to the Board of Appeals on May 4, 2003 (in response to the Board of Appeal's conditional approval of the modification to permit 4,500

square feet of modular additions to the Hospital rooftop in Case No. S-807-B). In short: 1) the Proposed Project will allow the Hospital to remain economically viable into the foreseeable future by adding improvements responsive to changes in the provision of medical care by hospitals, generated by regulatory changes and patient preference; and 2) it will enable the Hospital to attract quality physicians to the Hospital staff who will provide quality care and attract insured and paying patrons and patients to help offset the approximate Fifteen Million Dollars ($15,000,000) of uncompensated care provided by the Hospital each year. The components of the Proposed Project will be phased over a several-year period.

I. SUMMARY

The Proposed Project is comprised of the following components (all of which are more fully discussed herein): 1) a six-story, 144,000 +/- square-foot ambulatory care facility (split between ambulatory clinic care and physician office space – the "New ACF"); 2) a 5,500 +/- square foot expansion of the emergency department; 3) a three-story, 36,000 +/- square-foot vertical expansion to the existing Hospital in-patient building area to allow conversion of semi-private rooms to private rooms without increasing the number of beds; 4) a possible expansion of the existing power plant building serving the Hospital campus; 5) a six-story parking structure (with two stories underground) to satisfy the Hospital campus' current and future parking demands; 6) a vastly improved pedestrian and vehicular circulation system; 7) significant landscape improvements on the Property; and 8) a traffic mitigation program that will help mitigate traffic impacts of the Proposed Project on the immediate surrounding community.

The Proposed Project is necessary to satisfy the essential medical needs of the community serviced by the Hospital by providing (A) on-campus clinical facilities to

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accommodate the shift from in-patient care to ambulatory care services; (B) on-campus physician office space to attract and accommodate high quality physicians with specialized practices that benefit both physicians and patients by being adjacent to the Hospital; (C) more private versus semi-private rooms to improve patient care and respond to patient preference; (D) sufficient on-campus parking facilities to satisfy all of the Hospital campus' parking needs; (E) a much safer on-campus pedestrian and vehicular circulation system for the Hospital campus; and (F) a much-improved and unified landscaping of the Hospital campus. The express purpose of the Proposed Project is to provide comprehensive, state-of-the-art medical services and treatment to the surrounding community in a way that will have the least impact on the surrounding community but allow the Hospital to generate sufficient revenues to provide substantial amounts of uncompensated care (approximately $15 million annually) and remain financially viable.

The Hospital has had numerous community meetings in advance of filing for the Proposed Project in an effort to identify, address, and mitigate community concerns. The plans submitted for the Proposed Project are reflective of these efforts.[1] On balance, the Proposed Project reflects good faith efforts of the Hospital to meet local community concerns, while still

[1] With a new Hospital President in place, the Hospital, in June of 2001, requested the City of Takoma Park to appoint a Citizens Advisory Committee ("CAC"), chaired by City and M-NCPPC Staff, for the intended purpose of gaining community input into the Hospital's long-range plan, to facilitate open communications with the community. An outline of this CAC process is attached hereto as Exhibit "AA". Despite these pre-filing efforts, substantial opposition from community members (many of whom were CAC members) was presented during public hearings in Case No. S-807-B, wherein the Hospital sought to add 4,500 square feet of modular administrative space to the Hospital rooftop as a 5-year stopgap for critical space issues. The root of the opposition was not necessarily related to that modification, but was more about the community rejecting the CAC efforts as a process allowing meaningful dialogue (a concept which the Hospital still finds troublesome). The Board, in approving Case No. S-807-B, required that a new Board of Appeals Neighborhood Community Council be established and administered by Martin Klauber, the Montgomery County People's Counsel, to assist in facilitating communication between the Hospital and the Community concerning the long-term plans of the Hospital. This Council has met on _____ occasions and will continue to meet as needed leading up to the public hearings on this Application. In addition, the Hospital has hosted open houses at the Hospital and met with numerous civic and community groups over the last several months to discuss and receive input on its Proposed Project.

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achieving the basic underlying objectives of the Hospital to provide state-of-the art, medical services to the community and remain financially viable.

Having had these extensive community meetings, the Hospital is aware that the primary issue to those who have expressed opposition over time to the Proposed Project relates to the physicians office component to the New ACF (it being partially ambulatory clinic space and partially office space). As more fully discussed in Section IV of this Statement, the proposed ACF is needed to both provide the medical services needed by the community and to generate revenues sufficient to cover its costs and expenses. The Hospital strives to serve the community within which it is located, and to do this the Hospital must be capable of providing quality general and specialized medical services to its clientele. In addition, the Hospital provides approximately $15 million dollars of uncompensated health care (general and specialized medicine) annually. To physicians, time and efficiency equals profitability. To attract quality physicians to the Hospital, especially those whose specialties require their frequent visits to the Hospital to treat patients and their patients receiving care and treatment from the Hospital and ambulatory care facilities, it is paramount that their physician offices be located on the Hospital campus to allow efficiency and effectiveness in their practice. As discussed further below, even with the modest amount of physician office space proposed in conjunction with the New ACF, the Hospital remains at a competitive disadvantage to other hospitals in Montgomery County in terms of physician office space conveniently located on or very near to their campuses to attract quality physicians and physician practices.

II. BACKGROUND AND EXISTING IMPROVEMENTS

The Hospital commenced operations on the Property in 1907, and it has been serving the health care needs of the surrounding community for nearly 100 years. For many years, the

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Hospital was known as the Washington Sanitarium and Hospital. As a general community hospital, the Hospital has provided a full range of major clinical services for both in-patient and out-patient care. It has occupied the same site continuously, and various structures have been added to the campus over the years. The history of the site modifications and the special exception amendments (primarily through administrative approvals) follows, and the overall existing improvements to the Hospital campus are shown on the existing conditions plan, attached hereto as Exhibit "K".

The main entrance to the Hospital campus is on Carroll Avenue, with a second entrance provided at Maple Avenue. Currently, approximately two-thirds of site traffic utilizes the Carroll Avenue driveway and one-third uses the Maple Avenue driveway. The original Sanitarium building was constructed in 1907, with various wings added in later years. In 1940, the Lisner Building was added. The Lisner Building currently houses administrative staff, but is deteriorating and will, with or without the Proposed Project, need to be abandoned and demolished for safety reasons. In 1950, a six-story brick structure was built and became the focus of most patient care services (the "1950 Building").

On June 14, 1973, the Board approved Case S-238, the Hospital's special exception application to construct a three-story addition to the 1950 Building. This approval permitted the construction of the buff brick modern structure generally known as the main Hospital building (the "1973 Building"). At that time, a "multi-deck parking structure" was approved, but it was never constructed.

On December 14, 1977, the Board approved Case S-591, a modification to the Hospital's special exception, to (i) permit the construction of the fourth and fifth floors to the 1973 Building, to construct a one-story addition on the southeastern side of the 1973 Building, (ii)

increase parking spaces, and (iii) raze the Sanitarium building. The fourth and fifth floors, the one-story addition, and the parking areas were constructed in 1978, but the Sanitarium building was not razed in accordance with this approval.

On July 28, 1982, the Board approved Case S-807, again a modification of the Hospital's earlier special exception to permit the construction of a physician office building on the east side of the Property (the "Existing Physicians' Office Building"), to increase parking areas, to change landscaping and lighting throughout the site, and to raze the Sanitarium building. All elements of this special exception modification were implemented in 1982-1984.

The Board approved detailed plans for the north parking lot (contemplated in the 1982 approval) on September 1, 1982. On September 29, 1983, the Board granted a minor modification to Case S-807 authorizing the relocation of the front entrance driveway. Later that year, on November 10, 1982, the Board granted a minor modification to Case S-807 to enclose the ground area of the elevated patient wing of the 1973 Building.

On December 12, 1984, the Board granted a minor modification to Case S-807-A for construction of an underground wing for radiation therapy. On June 19, 1985, in minor modification Case S-807-A/B, the Board authorized construction of a one-story addition above the radiation therapy facility for out-patient testing uses.

On October 1, 1987, the Board approved the Hospital's request for a minor modification to Case S-807 to construct a 1,450 square-foot one-story addition to the 1973 Building as a waiting room area for the short-stay surgical area.

Two minor modifications were granted in 1987, which were not implemented and have been abandoned. The first, granted on July 23, 1987, authorized the construction of an elevated enclosed walkway between the Existing Physicians' Office Building and the 1973 Building. The

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other, granted on November 24, 1987, authorized the construction of a two-level addition to the rear of the 1973 Building for a relocated intensive care unit. Both minor modifications were not implemented because of cost and other feasibility considerations.

On November 28, 1990, the Board granted a minor modification for the construction of an elevator/stairway addition to the Chapel building.

On August 1, 1991, the Board approved a modification in Case S-238-A to construct a three-story building addition, a two-level parking deck, a rooftop helipad, and the leasing of additional parking from Columbia Union College. On November 10, 1992, the Board issued an opinion allowing for the revision of this plan to reconfigure the emergency entrance area.

On February 8, 1994, the Board granted a modification in Case No. S-238-B to permit the addition of an elevator and walkway to the rear of the parking deck and to permit the use of the parking deck for visitor, rather than employee, parking.

On August 9, 1996, in Case No. S-238-C, the Board approved a modification to permit the renovation of the plant operations building, including construction of a second-story addition and interior renovations to permit the building to be used as a clinical facility. In 1997 and 1998, the signage for the Hospital was reviewed and approved by the Board without conditions.

Finally, on June 12, 2002, in Case No. S-807-B, the Board approved a minor modification to add two modular units to the lower elevation of the existing Hospital rooftop containing 4,500 square feet and intended to house administrative operations to allow more Hospital patient care area within existing Hospital space. However, after the issuance of the Board's opinion on August 28, 2002, a request was made of the Board by local citizens to suspend the Board's decision in this case and conduct a public hearing. This public hearing was held on October 18, 2002, before the Hearing Examiner, who thereafter recommended approval

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of the modification. The Board, by resolution dated March 6, 2003 (the "March 6 Resolution"), again approved the modification, with conditions which included the creation of the Board of Appeals Neighborhood Community Council noted above, chaired by the People's Counsel.

On April 4, 2003, pursuant to a condition of the March 6 Resolution, the Hospital filed its long-range development plan with the Board which included all currently known plans for improving the Hospital and Hospital campus for the foreseeable future.

This long history of special exception modifications has been necessary to allow the Hospital to respond to the ever-changing medical needs of the community it serves and to remain economically viable and competitive while fulfilling its non-profit mission as a community hospital. The Proposed Project, rather than being pursued in a piecemeal fashion over the next several years, embodies and encompasses all the Hospital's anticipated campus and facility needs for the foreseeable future.

III. EXISTING OPERATIONS

The Hospital is presently licensed by the State of Maryland as a 322-bed acute care facility. As a general community hospital, the Hospital offers both in-patient and out-patient care. It is affiliated with a national network of Seventh-Day Adventist healthcare institutions, including three other hospitals located in the Washington, D.C. metropolitan area.

The Hospital's primary areas of focus are: cardiac services (including prevention, diagnosis, intervention, open heart surgery and rehabilitation), maternal-child services, surgery, orthopedics, urology, gynecology, oncology, general medicine, pulmonary medicine, nephrology (including acute dialysis), psychiatry, gastroenterology, endoscopic diagnosis and surgery, neurosurgery, neurology, infectious diseases, rehabilitation medicine, emergency medicine, nuclear medicine, and radiation oncology.

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Although very busy, the Hospital faces a number of significant challenges to remain financially viable in an era when hospitals are encountering increasing financial difficulties. On average, the Hospital treats 16,500 in-patients and receives 45,000 emergency visits a year. Forty-eight (48) percent of the Hospital's patients originate in Montgomery County, forty (40) percent come from Prince George's County, and twelve (12) percent come from the District of Columbia. Significantly, sixty-three (63) percent of the Hospital's patients come from within five miles of the Hospital. Over 1,863 persons are employed by the Hospital, including approximately 190 who live in Takoma Park. There are nearly 811 physicians with Hospital privileges, of whom approximately 300 are defined as "Active." Board certification is required for all physicians.

The Hospital also provides numerous community services which include, among others, a stop smoking plan, an adult and pediatric CPR program, a diabetes management course, an out-patient alcoholism treatment program, a weight control program, a childbirth program, a cholesterol screening program, a cardiac support group, an eating disorders support group, and an MS support group. In addition, the Hospital is currently in the process of developing a chronic disease clinic for diseases such as asthma, diabetes, sickle cell, etc. for uninsured and Medicaid patients. In conjunction with community partners, the Hospital is also developing a "sliding scale clinic" for those members of the community who are unable to afford traditional medical care services.

Of particular note is the Hospital's providing substantial amounts of uncompensated care to members of the surrounding community. Thirty-one (31) percent of the patients treated by the emergency department, or approximately 13,600 patients a year, have no insurance and are unable to pay for the medical services they receive. In addition, many of the uninsured

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emergency department patients also require in-patient, specialized care, exacerbating the fiscal impacts to the Hospital as it provides the same indistinguishable excellent care to these patients as it does to its insured and paying patients. The Hospital provides approximately $15 million, or about eight percent (8.0%) of its net revenues, each year in uncompensated care to uninsured and unpaying patients. By way of comparison, Holy Cross Hospital provides five point four two percent (5.42%) of its revenues and Suburban Hospital provides four point seven two percent (4.72%) of its revenues in uncompensated care. In addition, Washington Adventist Hospital has a higher percentage of Medicaid and Medicare patients than either Holy Cross or Shady Grove Hospitals.[2] Based on these numbers, it becomes self-evident that balancing uninsured and Medicaid patients with insured and paying patients is essential to maintain the Hospital's and the Hospital physicians' financial viability.

To remain financially viable, the Hospital must continually assess and adapt to the changing healthcare demands and landscape. There are a number of facets that help define the imperatives of the current healthcare market: 1) The Hospital's ability to function is impaired by space limitations; 2) Population growth is currently the driving force behind expansion needs. Between the years 2000 and 2009, population nationwide is expected to grow by eight percent (8.0%). Montgomery County is expected to see its population grow by five percent (5.0%) in the shorter period between 2000 and 2005. Such growth in population is expected to translate into an increase in in-patient volume for the Hospital of two to three percent (2.0-3.0%) and an increase in out-patient volume of five to six percent (5.0-6.0%). Such an increase will severely compound the space shortage the Hospital is already facing; and 3) Demographic changes, in particular the growth of the over-65 population, which utilizes four times more healthcare

[2] As a general rule, Medicaid patients are less knowledgeable about their health, are more prone to complications, and require more care.

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services than those under the age of 65. This portion of the population is projected to grow by twelve (12) percent during this decade.

Perhaps the most pressing and immediate limitation on the Hospital's ability to serve the surrounding community is the limited Emergency Department space and facilities. That department, as discussed more thoroughly below, is sized and equipped to respond to 35,000 visits per year, but is experiencing over 44,000 visits per year. This problem will only be exacerbated by the population growth noted above. The Proposed Project attempts to address and remedy this situation by adding approximately 5,500 square feet to the Emergency Department.

In addition, over the last several years there has been a dramatic increase in demand for ambulatory care services. Currently, the Hospital's percentage of ambulatory care services provided to its admitted patients is twenty percent (20%), which is significantly below the regional average of thirty to fifty percent (30-50%). This is a direct result of (i) the lack of on-campus specialty physicians and ambulatory care treatment facilities and equipment at the Hospital, and (ii) the Hospital simply having insufficient space to provide the needed ambulatory care facilities and services while it expands the Emergency Department and continues providing the administrative services and in-patient care services needed by the community.

In terms of in-patient care, the Hospital currently has a very high ratio (eighty-five percent (85%)) of semi-private beds. These semi-private rooms fail to meet patient needs and preferences in terms of room size, patient comfort, and privacy, as well as industry standards and practices for patient care (i.e., disease transmission, etc.). Converting a large number of the semi-private rooms to private rooms, as discussed more fully below, will greatly enhance the

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Hospital's ability to satisfy these current patient and industry preferences and requirements for patient care.

Finally, the existing Hospital campus is under-parked and unsafe from a pedestrian and vehicular circulation standpoint. Significant conflicts between pedestrians, vehicles, emergency vehicles and transit buses are obvious to even a casual observer and have resulted in numerous physical injuries to persons and damage to property.

In sum, the Proposed Project, a comprehensive, phased redevelopment of the Hospital campus, is essential to create a complete, self-supporting, on-campus ecosystem that will allow the Hospital to provide state-of-the-art medical services to the community and, at the same time, secure and maintain its financial viability.

IV. PROPOSED PHYSICAL IMPROVEMENTS

As shown on the comprehensive site plan (attached hereto as Exhibit "C"), the Proposed Project will (i) expand the Hospital's emergency department, (ii) add ambulatory care facilities, equipment, services, and supporting medical office space, (iii) provide more private patient rooms, (iv) provide adequate on-site parking, (v) improve pedestrian and vehicular circulation and safety, and (vi) possibly expand the existing power plant. The location of these improvements is shown on the site plan.

The Proposed Project will occur as follows:

Phase I

- Demolish the Lisner Building
- Construct the New ACF, along with one-half of the structured garage
- Expand the Emergency Department

Phase II

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- Construct the second half of the structured garage
- Construct site improvements including site utilities and improvements to the entrance on Carroll Avenue, the entry drive, the existing surface parking lot adjacent to Carroll Avenue, and most of the proposed landscape plan

Phase III (to be overlapped somewhat with Phase II)

- Construct the vertical Hospital in-patient room expansion
- Construct the power plant expansion (if needed)

The changes to the storm water system and the vehicular and pedestrian circulation systems, and the installation of new landscaping, will occur in an orderly fashion with this phased build-out. Construction staging, parking, maintaining access and other construction details are in the process of being studied and will be thoroughly presented when complete. The construction process will comply with all applicable regulations and be planned and processed to minimize the impact on the surrounding areas and neighborhoods in a reasonable fashion.

A further explanation of the various components of the Proposed Project follows, along with an explanation of the local conditions that necessitate these changes:

Emergency Department - The current emergency department was designed for 35,000 visits per year, yet the current volume of visits is 44,000. This number of visits is projected to grow by five to nine percent (5.0-9.0%) annually. Alone, these numbers demonstrate the necessity of the expansion. The factors that create the need to expand the emergency department include:

- The Health Care Financing Administration (HCFA) projects that from 2000 to 2009, the overall population will grow by eight percent (8.0%).

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- HCFA projects that out-patient services such as emergency care, will grow five to six percent (5.0-6.0%) annually.
- Local projections predict that Montgomery County population will grow by five point two percent (5.2%) between 2000 and 2005.
- Local projections predict that Prince George's County population will grow by two point six percent (2.6%) between 2000 and 2005.
- The National Council of Health Studies has identified that since 1999, there has been an annual growth factor of five point five percent (5.5%) for emergency visits.
- The Maryland Health Care Commission has recorded annual growth in Emergency Department visits of between five and nine percent (5.0-9.0%) since 1998.
- The Emergency Department is the prime provider of primary care services to people without health insurance and without the ability to pay for the medical services received.
- In the past 10 years, the number of people without insurance has increased by twenty percent (20%).

Furthermore, all Montgomery County hospital emergency departments routinely need to divert emergency patients to other hospitals because of overcrowding and insufficient space and facilities. These conditions are only exacerbated by the recent terrorist activities and threats to the Nations' Capital area in which the Hospital is located. To satisfy these current needs and demands, the Hospital proposes to expand its Emergency Department within the existing building footprint by adding approximately 5,500 square feet to the department. The expansion will incorporate a Fast Track Program, a modified Psychiatric Treatment room area, a modified and expanded walk-in patient entrance, a new registration area and waiting area, and additional decontamination rooms. The Emergency Department entrance will also be modified to

accommodate the internal changes and to further define, separate and make the ambulance entrance and the patient/visitor entrance more efficient and effective, essentially separating them to eliminate conflicts and to facilitate better response to emergency care needs of patients.

Ambulatory Care Facility - The New ACF will contain approximately 144,000 square feet of space; approximately fifty percent (50%) of which will be used for ambulatory service facilities and medical clinic space, and approximately fifty percent (50%) of which will be used for physician office space. Currently, on campus, the Hospital has 62,546 square feet of physician office space already existing in the Existing Physicians' Office Building and other facilities on the Property. In the immediate area, there is an additional medical office building at the intersection of Carroll Avenue and University Boulevard that is privately owned. This building has approximately 25,000 square feet of physician office space. The addition of the New ACF will result in a net total of 129,166 square feet of medical office space available to and serving the Hospital in close proximity. This number can be compared to the 215,000 square feet of physician office space at or proximate to Washington Hospital Center, 250,000 square feet of physician office space at or proximate to Holy Cross Hospital (including the additional 62,000 square feet under construction there), and 300,000 square feet of physician office space at or proximate to Shady Grove Adventist Hospital. Also as noted above, the added ambulatory and clinical space to be contained in the New ACF will assist the Hospital in inching closer to the percentage of ambulatory care services typical for hospitals in this area.

To be more specific, the proposed New ACF to be located on-campus is necessary for a number of critical reasons. Each of the two components of the New ACF will be addressed in turn – the medical office space and the clinic/ambulatory services space.

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The Medical Office Space. There are a number of reasons why additional on-campus physician office space is imperative for the future health and viability of Washington Adventist Hospital:

- Hospitals do not admit patients. Physicians are the only ones who can provide direct care to patients. Without the role of the physician, nothing happens.
- Most healthy hospitals of the approximate size of Washington Adventist Hospital will have in excess of 200,000 square feet of physician office space on or very near the hospital campus.
- Washington Adventist Hospital currently has approximately 62,000 square feet of medical office space available on campus. There is an additional 25,000 square feet available in the immediate area. This totals approximately 80,000 square feet, an amount that is substantially below what is available to other competing hospitals in the area.
- The Proposed Project would add approximately 70,000 square feet of medical office space to the Hospital Campus, after the proposed demolitions. The post project space available in the immediate area would total approximately 144,000 square feet. As indicated above, this amount of on-campus or proximate physician office space is still considerably below the amount enjoyed by competing hospitals in the area.
- Physicians' practices such as cardiologists, neurologists, neurosurgeons, oncologists, orthopedic surgeons, gynecological oncologists, endocrinologists, and colorectal surgeons frequently locate their practices on a hospital campus. This occurs because of their need to routinely access expensive diagnostic and treatment equipment that is only located on a hospital campus. In addition, their patients tend to be more acutely ill and require more frequent supervision interspersed with routine office practice. This makes

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an office located on a hospital campus a practical necessity from the perspective of effective use of time.

- Physicians are independent small businesses and the prime resource that they have to sell is their time and expertise. Therefore, physicians constantly look for efficient ways to manage their practice. Reducing the amount of time that is spent traveling from the office to the hospital is an important method of managing their time effectively.
- In the broader region, there is a scarcity of good medical office space. There are medical offices in downtown Silver Spring, a mixed use building on New Hampshire Avenue in the White Oak area, and a number of medical office buildings in the Greenbelt area in Prince George's County, all of which are a respectable distance from the Hospital. Other than the above, the medical office space for physicians in proximity to the Hospital is generally sub-standard when compared to the medical office space available in other sections of the County.
- Having sufficient medical office space proximate to the Hospital is vital to the health of the medical ecosystem. Currently, thirty-one (31) percent of the patients that come to the Hospital Emergency Department do not have insurance or the ability to pay for the medical services they receive. Many of these people are subsequently admitted to the hospital for expensive in-patient care. Washington Adventist provides approximately $15 million in uncompensated care on an annual basis. This equates to approximately eight percent (8.0%) of net revenues which is substantially more than competing hospitals in the area. Not only does the Hospital provide free care, but the entire medical staff and physicians practicing at the Hospital are required to provide free care to these patients. While it is reasonable to expect a charitable organization such as a hospital to

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provide substantial free care, it is not reasonable to expect private physicians to provide substantial free care, because this directly detracts from their ability to earn a living. In this sense, the Hospital becomes less attractive to private physicians and, therefore, has a more difficult time attracting private physicians than do other hospitals, such as Suburban and Holy Cross, that have fewer patients requiring free medical care.

- In addition to the free care that both the Hospital and its physicians provide, there is a wide difference in what insurance companies pay to physicians. Generally, regular insurers and HMOs pay the best, while Medicaid and Medicare pay the worst. For instance, in the field of anesthesiology, Medicare pays $14 per unit and Medicaid will pay about eighty percent (80%) of Medicare while the other insurers will pay in a range of $33 to $42 per unit. At the Hospital, approximately forty-eight percent (48%) of all patients are Medicare, approximately seven percent (7.0%) are Medicaid, and approximately eight percent (8.0%) are no pay. This makes it extremely difficult for physicians to earn compensation equal to what their counterparts earn or what they could earn at competing hospitals in the area. By contrast, many other area hospitals have only twenty-five to thirty-three percent (25-30%) Medicare patients and substantially fewer Medicaid patients and no pay patients than does the Hospital.
- Not surprisingly, when physicians find it difficult to earn a living from the local patient population, they look for ways to migrate to areas that have a better mix of patients. The recent closure of DC General and the bankruptcy of Greater Southeast Hospital started with the increased difficulty of physicians to earn a living from private patients. As these physicians migrated away, the remaining patients represented an increased percentage of very sick medical patients with very poor insurance per physician. These hospitals then

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needed to subsidize the remaining physicians to keep them there, adding to those hospitals' increasing financial difficulties.

- If Washington Adventist Hospital is to be able to continue to be a vital part of the social safety net and provide $15 million of uncompensated care annually (and this amount is growing), it must find a way to balance its free care with an ability to attract better insured and paying patients. To accomplish this requires the presence of attractive, functional and convenient medical office space that will allow physicians to practice in an efficient manner. Failure to provide such space this will result in a continual slide towards becoming a second rate hospital until, eventually, Washington Adventist will become financially distressed like Prince George's Hospital, or worse, like Greater Southeast Hospital. Ultimately, hospitals compete to attract good physician practices. Having an adequate amount of attractive medical office space available on campus to facilitate efficient physician practice is what allows a hospital to balance its free care to the community.
- With the expected population growth, the aging of the population and the demographic profile of the patients that the Hospital serves, there is a steadily increasing demand for additional physician services in the community surrounding the Hospital. If physicians are not available in the community, local residents will be required to leave the community to receive medical care.
- In addition to the medical office space requested for development on campus, it would be advantageous to have additional medical office space available in the region. However, a review of property within a several mile radius revealed no property available with the appropriate zoning to accommodate medical office development.

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The Clinic and Ambulatory Service Space. The New ACF will allow the Hospital to provide the surrounding community with needed ambulatory services that it cannot now provide. The ever-increasing demand for these and other ambulatory services make it critical that the Hospital expand its ambulatory services department as proposed. However, there is no room for this needed expansion within the existing buildings and improvements on the Property. The New ACF will provide the necessary space and facilities to support and accommodate these expanded ambulatory care services which are necessary to attract private physician practices, improve patient care, and maintain the financial viability of the Hospital.

- Ambulatory services now represent more than fifty (50) percent of all medical services on a national basis. Ambulatory services are growing at a compounded annual growth rate of five to six percent (5.0-6.0%) per year. Generally, ambulatory services are more profitable than in-patient services because the patients are less acutely ill and require less care. With this growth and its impact on financial health, it is imperative that a hospital have well-developed ambulatory services.
- At the Hospital, ambulatory services represent only twenty percent (20%) of all services provided. The Hospital simply does not have the facilities on campus to provide comprehensive ambulatory service.
- Some of the specific ambulatory services that will be included in the New ACF are ambulatory surgery, a GI lab, potentially a lithotriptor, imaging services, dialysis, rehabilitation services, and specialty services (COPD, CHF, Pain, Wound, Diabetes, etc.).
- Included in the ambulatory space will be accommodations for chronic disease clinics such as diabetes, congestive heart failure, chronic obstructive pulmonary disease and pain and wound.

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Parking Structure - The parking structure proposed as part of the Proposed Project is needed to satisfy both the long-term shortage of parking that the Hospital has experienced in the past and the additional parking demands created by the expansion of the Hospital and the New ACF. Currently, due to the lack of adequate spaces on campus, Hospital-associated parking spills over onto adjacent public streets - a practice that the Hospital believes is not in the best interest of the community and is not consistent with its attempts to be a "good neighbor." The traffic consultant hired by the Hospital estimates that an average of sixty-three (63) cars associated with the Hospital park along neighborhood streets daily. In an attempt to alleviate some of the parking issues on campus, the Hospital currently provides employee parking at the nearby Takoma Academy (104 spaces) and buses employees in from that location. While this provides some relief for primarily employee parking, this off-site parking is inefficient, expensive, and is not a long-term solution in that the Hospital's right to use the Takoma Academy parking is not a long-term right. Even with this off-site parking, it is estimated that on an average day, the Hospital experiences a shortage of 50 patient parking spaces under today's conditions. In addition, the continual operation of the shuttle bus service is very expensive (approximately $50,000 per year). The Proposed Project addresses and resolves all of the parking needs and issues for the Hospital and the surrounding neighborhood by satisfying them on-campus in a manner that will be most efficient and cost effective for the Hospital and impose the least impact on the surrounding community and neighborhoods.

In addition to the current parking shortage on-campus, 342 existing parking spaces will be displaced in the construction of the Proposed Project, the reconfiguration of the front drive, and increased landscaping on the Property. The combination of the current parking deficit, the displaced parking, and the generation of additional parking needs for the new construction results

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in the need for a total of 1070 new parking spaces, most of which will be located in the proposed six-story (two stories below grade) parking structure in the middle of the Hospital campus.

The location of the proposed parking structure is dictated by existing site conditions, environmental conditions, and the desire to minimize the visibility of the structure to the nearby residents. In addition, being located at the center of the Existing Physicians' Office Building, the New ACF, and the Hospital, the proposed parking garage will accommodate the parking needs and facilitate parking access in a very efficient and convenient manner for patients, visitors, and physicians alike. Several alternative parking schemes (including locating some of the structured parking back on the Maple Avenue side of the campus) were considered by the CAC, but the proposed location emerged as the most preferable location in addressing a number of Hospital and community concerns.

Although the Hospital intends to provide enough on-site parking to satisfy its current and future needs, the Hospital will also be strengthening its existing traffic demand management measures and will be adding new measures aimed at reducing the amount of traffic generated by the Hospital so as to mitigate and minimize the traffic impact of the Proposed Project on the surrounding community. As described more fully in the Transportation Management Plan forming a part of this application, proposed traffic demand management measures will include an on-site Transportation Coordinator, the appointment of a Community Liaison Committee, increased efforts to inform employees and visitors of the Hospital's Transportation Management Plan and transportation alternatives, ride-share matching, guaranteed rides home, the on-site sale of fare media to employees, the construction of high-quality bus shelters on the Hospital campus, reserved parking spaces for carpools and vanpools, working with the County to improve bus

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service and connections to the nearby Takoma Park Metro Station, and excellent pedestrian and bicycle connections to and through the Hospital campus.

Vertical Expansion of Hospital In-Patient Capacity - The proposed three-story, 36,000 square-foot, vertical expansion above the 1991 Building will allow the Hospital to provide more private in-patient rooms. Currently the Hospital has only 54 private rooms, most of which are in the intensive care unit. This equates to approximately one-sixth of all licensed beds at the Hospital. The Hospital would like to increase the percentage of private rooms for a number of reasons. Of primary concern is infection control. Methicillin Resistant Staphylococcus Auereus ("MRSA") incidence is currently at thirty percent (30%) among the medical population. Placing patients in private rooms is one of the best ways to manage the care of these patients and prevent the spread of these resistant organisms. More private rooms are also needed to address male and female segregation and patient preference for private rooms in all portions of the Hospital, but especially in the obstetrics department. Increasing the number of private rooms will improve the quality of medical care and accommodate patient preference and demand. This, in turn, will enable the Hospital to serve the community better and, at the same time, attract patients and generate business that will allow the Hospital to maintain its financial viability. No additional licensed beds are requested as part of the Proposed Project.

Expansion of Power Plant - As discussed in much greater detail in the Architectural Report (attached hereto as Exhibit "W"), the existing central power plant for the Hospital campus may also need to be expanded by 2,875 square feet to house necessary mechanical equipment to serve the Hospital's power needs.

Pedestrian and Vehicular Circulation - The Proposed Project comprehensively modifies the on-campus pedestrian and vehicular circulation systems to provide a much safer, much more

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efficient system. Under the proposed plan, the main Hospital and the New ACF will be served and connected by a shared vehicular drop-off loop and a covered walkway. The surface parking that currently borders the entry drive will be removed and replaced by a new sidewalk that will link the Carroll Avenue sidewalks to the Hospital and the Columbia Union College on-campus walkways. These changes, along with significant added landscaping, will transform what is now an unsafe driveway/parking lot into a much safer, more attractive, pedestrian-friendly entry drive. Vehicular access to the proposed parking structure will be offered at two different locations off of the Hospital entry drive (connecting to two different parking levels), and secondary walkways will link the pedestrian spine with the Existing Physicians' Office Building and the existing parking structure.

Architecture and Landscape – As is more fully described in the Architectural Report submitted herewith (Exhibit "W"), an aggressive tree planting program is proposed as part of the Proposed Project. Over 230 new trees will be planted on the Property that will offer beautification, shade, and screening of structures from public view. In addition, great care will be taken to preserve existing trees, wherever possible. A variety of shade trees, evergreen trees, and under story plantings will be planted along Carroll Avenue on a landscaped berm to buffer the view of the existing surface parking lot from the street and surrounding residential neighborhood. Also, as mentioned above, the surface parking currently bordering the entry drive will be removed and replaced with a sidewalk, trees, lawns, and under story plantings. Overall, the significant plantings proposed as part of the Proposed Project will soften and beautify the campus, and minimize the visual impact of the existing and new Hospital buildings on adjacent communities.

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Great care was also taken with the design of the new structures. As fully explained in the Architectural Report, the design of the Proposed Project was carefully planned to recognize and respect the history of the site and the various architectural designs surrounding and influencing the Property. To blend these influences into a cohesive solution, the improvements have been designed with a residential scale "base" of fieldstone and a limestone appearing precast and glass exterior (refacing existing buildings to match), and an architecturally pleasing "cap" at the roof line. This proposed design de-emphasizes the scale of the campus buildings, vis a vis the immediate areas surrounding the Hospital campus, while providing an architecturally pleasing design for the new buildings to be built that will also complement and beautify the existing facilities.

Utilities and Stormwater Management – As is more fully discussed in the Site Utility Report attached hereto as Exhibit "P", all major utilities necessary to service the Proposed Project are immediately available and adequate. As for stormwater management, existing conditions are such that stormwater runoff is not currently controlled through either quality or quantity controls. This results in areas where "ponding" occurs during heavy rainfalls and most of the Subject Property drains directly to Sligo Creek without control or treatment. The Proposed Project will add stormwater quality and quantity controls consistent with current City of Takoma Park and Montgomery County requirements, as is more fully described in the Concept Stormwater Management Report attached hereto as Exhibit "O".

V. PROPOSED OPERATIONS

No change is proposed in the maximum number of beds. The Proposed Project will allow and provide essential ambulatory care services, physician's office space and a sufficient number and percentage of private in-patient rooms, which otherwise cannot be provided with

existing space limitations. No new in-patient beds are proposed to be added in conjunction with the Proposed Project.

Proposed number of new employees and employees' work schedule. Excluding the Existing Physicians' Office Building, the Hospital currently employs seven hundred and fifty (750) employees on the major shift, which takes place between 7:00 a.m. and 3:00 p.m. Two hundred and eighty (280) employees currently work on the evening shift, from 3:00 p.m. to 11:00 p.m. One hundred and fifty (150) employees currently work on the night shift, from 11:00 p.m. to 7:00 a.m. In connection with the existing medical office space on campus, including the Existing Physician's Office Building, there are approximately one hundred (100) other employees on campus between the hours of 7:00 a.m. and 7:00 p.m. Approximately 90 physicians, including those with offices in the Existing Physician's Office Building, are on campus during the weekday major shift, except one Friday each month when there are slightly more than 100 physicians on campus for continuing education.

In connection with the Proposed Project, the number of employees on campus each day between the hours of 7:00 a.m. and 7:00 p.m. is expected to increase by approximately one hundred and forty (140). Approximately seven (7) of these employees will work in the expanded emergency department, approximately forty (40) will work in the new clinical space provided in the Ambulatory Care Facility, and approximately ninety-three (93) new employees will work in the new medical office space in the Ambulatory Care Facility. The number of physicians on the weekday major shift is also anticipated to increase by 26, or twenty-eight (28) percent, after the implementation of the Proposed Project. The number, time periods for, and nature of existing shifts will not change with the Proposed Project.

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No change is proposed in the hours of operation. The Hospital operates 24 hours a day, all year round. Most of the activity on the campus occurs between 7:00 a.m. and 8:00 p.m., with the absolute peak occurring between 8:00 a.m. and 5:00 p.m. This will remain unchanged with the Proposed Project.

No change is proposed to the existing delivery schedule. Under the existing schedule for delivery of Hospital supplies, UPS and FedEx deliver between 9:30 and 10:30 a.m., with FedEx sometimes making another delivery of standard overnight packages around 3:30 p.m. Airborne Express generally delivers around 12:30 p.m., and Cardinal, the Hospital's primary medical supply distributor, delivers on Tuesday and Thursday mornings at approximately 5:30 a.m. This schedule will not change with the Proposed Project.

Traffic Generation. Traffic generation and impacts on the local road network from the Proposed Project will increase over existing operations, but (as further described in the Transportation Report attached hereto as Exhibit "Q"), total traffic generated after the Proposed Project is built and operating will be in conformance with all applicable review criteria for the special exception modification request[3]. In addition, it is important to note that the peak period of traffic generation for the Hospital occurs outside of the a.m. and p.m. peak periods of traffic generation for the local road network. Furthermore, the Hospital is proposing a transportation demand management plan, as further described in the Transportation Report, to mitigate and minimize the traffic impact of the Proposed Project on the surrounding streets and adjacent neighborhoods.

[3] The Hospital traffic studies have also included anticipated traffic impacts from long-range plans associated with new development on the Columbia Union College ("CUC") property. It is anticipated that CUC and the Hospital will jointly file for subdivision approval allowing a single adequate public facilities review for the full build-out of the long-range plans of both institutions.

VI. MASTER PLAN CONFORMANCE

The Takoma Park Master Plan, approved and adopted in December of 2000, envisions the need for the Hospital to expand and sets forth several guidelines for such Hospital expansion. While the Master Plan discusses Hospital expansion plans within the same context as CUC and the nearby Adventist Church, this was apparently under the false pretense that all were owned by the Adventist Church and thus a unified, long-term plan for the entire institutional area could be developed. The Hospital, while affiliated with the Church, is a separate entity, with separate trustees and directors, budgets, purposes, long-term plans, and timing for expansion from CUC and the nearby Church. While the Hospital is working with CUC to coordinate long-term plans where practical and feasible, the reality is that each of these institutions must approach and implement their respective long-term plans pursuant to their respective needs and budgeting constraints.

Nevertheless, the Proposed Project conforms to the general guidelines of the Master Plan, as is further set forth in the Land Planning Report attached hereto as Exhibit "Y".

VII. DISCUSSION OF INHERENT IMPACTS

Pursuant to Section 59-G-1.2.1 of the Zoning Ordinance, in making the findings required for the grant of a special exception, the Board must consider the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the R-60 zone. Inherent adverse effects are defined as the physical and operational characteristics necessarily associated with the proposed use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are the physical and operational characteristics

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not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. The inherent impacts associated with a hospital include the physical presence of buildings and parking facilities; lighting associated with the buildings, parking facilities and grounds of the hospital; noise, physical activity and traffic associated with staff, patients and visitors traveling to/from the hospital by car, bus, or emergency vehicles or helicopters; noise activity, refuse collection and cooking aromas associated with the Hospital operations; and continuous hours of operation and employee shift work.

As described above, the Proposed Project will substantially improve the operations of the Hospital and its ability to serve the surrounding community by allowing and providing for much-needed ambulatory care facilities and services, physician office space proximate to the Hospital, and more private patient rooms without increasing the number of patient beds. The Proposed Project will also substantially improve on-site pedestrian and vehicular circulation systems and landscaping. The additional traffic associated with the Proposed Project can be accommodated well within existing capacity limitations established for this policy area and for local area transportation review under current County regulatory criteria. The proposed parking structure and other on-campus parking provided under the Proposed Project will satisfy all the parking requirements of the new Hospital campus and eliminate the parking overflow onto neighborhood streets experienced over the past few years. All proposed improvements will provide protections against preventable light glare visible off site, and great care has been taken to locate and design the improvements to be attractive and to blend with the surrounding community and the existing Hospital. All impacts of the Proposed Plan are inherent to a hospital use. There are no non-inherent, unanticipated adverse impacts which will occur as a result of the Proposed Project.

VIII. EXHIBITS AND WITNESSES

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In accordance with the requirements set forth at Section 59-A-4.22 of the Zoning Ordinance, the Hospital submits the following exhibits:

1. Completed application for a special exception and Statement of Petitioner (Exhibit "A")
2. Certified zoning vicinity map of the Property (Exhibit "B")
3. Comprehensive site plan of development prepared by VIKA Inc. (Exhibit "C")
4. Conceptual building elevations for the Ambulatory Care Facility, parking structure, emergency department and Hospital expansion prepared by Ellerbe Becket Architects and Engineers, Inc. (Exhibit "D")
5. Applicable Sections of the Approved and Adopted Master Plan for Takoma Park (2000) (Exhibit "E")
6. Montgomery County Tax Map showing the Property (Exhibit "F")
7. List of Adjoining and Confronting Property Owners and Local Citizens Associations (Exhibit "G")
8. Approved Natural Resources Inventory/Forest Stand Delineation Plan (Exhibit "H")
9. Preliminary forest conservation plan prepared by VIKA, Inc. (Exhibit "I")
10. Site identification plat prepared by VIKA, Inc. (Exhibit "J")
11. Existing conditions plan prepared by VIKA, Inc. (Exhibit "K")
12. Utility plan prepared by VIKA, Inc. (Exhibit "L")
13. Existing and proposed drainage area maps prepared by VIKA, Inc. (Exhibit "M")
14. Storm water management plan prepared by VIKA, Inc. (Exhibit "N")
15. Concept Storm Water Management Report prepared by VIKA, Inc. (Exhibit "O")
16. Site Utility Report prepared by VIKA, Inc. (Exhibit "P")
17. Traffic and Parking Analysis prepared by Wells & Associates, Inc. (Exhibit "Q")

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18. Draft Outline of Transportation Management Plan prepared by Wells & Associates, Inc. (Exhibit "R")

19. Existing site lighting plans prepared by Ellerbe Becket Architects and Engineers, Inc. (Exhibit "S")

20. Proposed site lighting plans and photometrics prepared by Ellerbe Becket Architects and Engineers, Inc. (Exhibit "T")

21. Landscape plan prepared by Oculus (Exhibit "U")

22. Planting plan and details prepared by Oculus (Exhibit "V")

23. Architectural Report prepared by Ellerbe Becket Architects and Engineers, Inc. (Exhibit "W")

24. Building cross-sections prepared by Ellerbe Becket Architects and Engineers, Inc. (Exhibit "X")

25. Land Planning Report prepared by Perrine Planning and Zoning (Exhibit "Y")

26. Appraisal Report prepared by Lipman, Frizzell & Mitchell (Exhibit "Z")

27. Outline of Citizens Advisory Committee process (Exhibit "AA")

We anticipate having the following witnesses appear at the public hearing:

1. Kenneth Bauer, the Hospital President (and/or another or other representative(s) of the Hospital), will testify with respect to the history and mission of the Hospital, the need for the proposed improvements, and the operational characteristics of the Hospital.

2. Donovan Smith, Ellerbe Becket Architects (and/or another representative(s) of Ellerbe Becket), will testify as an expert architect with respect to the physical improvements and site design proposed as part of the special exception application. A copy of Mr. Smith's resume is enclosed (Exhibit _).

3. Donald Hoover, Oculus, will testify as an expert in landscape architecture with respect to the lighting and landscaping proposed as part of the special exception application. A copy of Mr. Hoover's resume is enclosed (Exhibit _).

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4. Charles Irish, VIKA, Inc., will testify as an expert in civil engineering concerning engineering matters related to the special exception modification. Mr. Irish has testified before the Board as an expert in civil engineering within the last two years; nevertheless, a copy of his resume is enclosed (Exhibit__).

5. Martin Wells, Wells & Associates, will testify as an expert in transportation planning/engineering concerning the transportation impacts of the special exception modification. Mr. Wells has testified as an expert in transportation planning/engineering before the Board within the last two years; nevertheless, a copy of his resume is enclosed (Exhibit___).

6. Phillip Perrine, Perrine Planning and Zoning, will testify as an expert in Land Planning concerning conformance of the Proposed Project to the Takoma Park Master Plan and the Montgomery County Zoning Ordinance. Mr. Perrine has testified as an expert in land planning before the Board within the last two years; nevertheless, a copy of his resume is enclosed (Exhibit__).

7. Ryland Mitchell, of Lipman, Frizzell, and Mitchell, will testify as an expert land appraiser concerning the effect of the Proposed Project on neighboring properties. Mr. Mitchell has testified as an expert appraiser before the Board within the last two years; nevertheless, a copy of his resume is enclosed (Exhibit__).

8. _____, will testify relating to current needs for long-term viability of hospitals and how this relates to the Proposed Project.

Petitioner reserves the right to present other witnesses, and additional exhibits may be submitted in support of the Proposed Project.

As further described in the Land Planning Report included as Exhibit "Y" hereto (and the other reports of the project's expert consultants), in connection with the Petition for Special

Exception Modification, Petitioner intends to prove, in accordance with the applicable conditions of Section 59-G-1.2 and Section 59-G-2.31 of the Zoning Ordinance, that the proposed modification:

9. Is associated with a special exception use permitted in the R-60 Zone.

10. Complies with the standards and requirements set forth for the use in Division 59-G-2.30 of the Zoning Ordinance (*see* Paragraphs 10-12 below).

11. Will be consistent with the general plan for the physical development for the District, including the approved and adopted Takoma Park Master Plan (2000) (See Land Planning Report, Exhibit "Y").

12. Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.

13. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the Zone.

14. Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse affects the use might have if established elsewhere in the Zone.

15. Will not, when evaluated in conjunction with any existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area.

16. Will not adversely affect the health, safety, security, morals or general welfare of

residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the Zone.

17. Will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities, and will have no detrimental effect on the safety of vehicular or pedestrian traffic.

18. Will not constitute a nuisance because of traffic, noise or number of patients or persons being cared for.

19. Will not affect adversely the present character or future development of the surrounding residential community.

20. Will be developed in conformity with the area, density, building coverage, frontage, setback, access and screening requirements, as applicable, set forth in Section 59-G-2.31 of the Zoning Ordinance.

Petitioner anticipates it will take approximately two days to present its case-in-chief.

Respectfully submitted,

LINOWES AND BLOCHER LLP

DRAFT

C. Robert Dalrymple

Erin E Girard
7200 Wisconsin Avenue, Suite 800
Bethesda, Maryland 20814
(301) 961-5208
Attorneys for Petitioner

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